

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF VENTURA  
VENTURA DIVISION**

**TENTATIVE RULINGS**

EVENT DATE: 09/25/2020                      EVENT TIME: 08:20:00 AM                      DEPT.: 20  
JUDICIAL OFFICER: Matthew P. Guasco

CASE NUM: 56-2019-00535055-CU-PA-VTA  
CASE TITLE: STEWART VS. CITY OF OJAI

CASE CATEGORY:    Civil - Unlimited                      CASE TYPE: PI/PD/WD - Auto

EVENT TYPE: Motion To Quash - Notices of Deposition and for Protective Order  
CAUSAL DOCUMENT/DATE FILED: Motion to Quash, 07/28/2020

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Notice Regarding Courtroom 20 Law & Motion Procedures: The law and motion calendar in Courtroom 20 before Judge Matthew P. Guasco starts promptly at 8:30 a.m. Ex parte applications will be heard at the same time as matters on the law and motion calendar. Parties appearing by Court Call must check in with the Judicial Assistant by 8:20 a.m. No notice of intent to appear is required. Parties wishing to submit on the tentative decision must so notify the Court by e-mail at [Courtroom20@ventura.courts.ca.gov](mailto:Courtroom20@ventura.courts.ca.gov) or by fax to Judge Guasco's secretary, Lori Jacques at (805) 477-5892. **Do not call in lieu of sending an e-mail or fax.** If a party submits on the tentative decision without appearing, but another party appears, the hearing will be conducted in the absence of the non-appearing party. Effective February 13, 2018, all cases assigned to Courtroom 20 are assigned for all purposes (including trial) to Judge Guasco.

**COVID-19 NOTICE:** Pursuant to the administrative orders of the Presiding Judge and the Civil Reopening Plan, effective June 10, 2020, and until further notice, all attorneys and self-represented parties in law and motion hearings must appear telephonically via Court Call; there shall be no personal appearances in the courtroom without the prior express approval of Judge Guasco. You may contact Court Call as follows: [www.courtcall.com](http://www.courtcall.com) or call 888-882-6878.

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The following is the Court's tentative decision concerning the motion of defendant, City of Ojai ("City"), to quash notices of deposition served by plaintiffs, Wayne J. Stewart, John Manning, and Susan Manning ("plaintiffs"), in this wrongful death personal injury action arising from the death of plaintiffs' decedent, Edith Rubaloff ("Ms. Rubaloff"):

The Court GRANTS the motion to quash the deposition notices served by plaintiffs on Ojai City Council members Suza Francina, Johnny Johnston, Bill Weirick, and Ryan Blatz for the following reasons:

(1) The general rule is that the heads of agencies and other top governmental executives and officials are not subject to depositions in civil cases absent compelling reasons. (*Westly v. Superior Court (Cates)* (2004) 125 Cal.App.4<sup>th</sup> 907, 910, 23 Cal.Rptr.3d 154; *Nagle v. Superior Court (Green)* (1994) 28 Cal.App.4<sup>th</sup> 1465, 1467-68, 34 Cal.Rptr.2d 281.)

(2) An exception to this rule exists if and only if the top governmental official has direct personal factual information about the case and that information is not reasonably available from any other source. (*Westly v. Superior Court (Cates)*, *supra*, 125 Cal.App.4<sup>th</sup> at p. 911, 23 Cal.Rptr.3d 154; *Deukmajian v. Superior Court (Wilson)* (1983) 143 Cal.App.3d 632, 634-35, 191 Cal.Rptr. 905.)

(3) The Court finds that plaintiffs have failed to meet their burden of demonstrating that City Council members Francina, Johnston, Weirick and/or Blatz have any personal knowledge of facts relevant to this case. None of these public officials are alleged to have witnessed the tragic accident which resulted in the death of Ms. Rubaloff. Their alleged notice or knowledge of a dangerous condition at the pedestrian street crossing in question is information readily available from other sources, including but not limited to traffic collision reports, Cal Trans, Ventura County and City traffic engineering surveys and reports, and other anecdotal information or media reports made known to City.

Accordingly, the Court GRANTS the motion and hereby enters its ORDER quashing the deposition notices as to each

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and every one of the above City Council members.

Counsel for City shall serve and file a notice of ruling and proposed order consistent with the above and in conformity with the Code of Civil Procedure and the Rules of Court. A copy of this tentative decision (if adopted by the Court as its final ruling) may be attached to and incorporated by reference in any such proposed order in lieu of copying same verbatim in the body of the document.